

# KILARU EXHIBIT 3

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A LIMITED LIABILITY PARTNERSHIP

November 25, 2024

**VIA EMAIL**

Attorney General Marty J. Jackley  
Office of Attorney General  
1302 E. Highway 14, Suite 1  
Pierre, SD 57501

**Re: NCAA CAFA Notice**

Dear General Jackley:

The NCAA is in receipt of your October 17, 2024 letter regarding the CAFA notice submitted to your office in connection with the settlement of *In re College Athlete NIL Litigation*, and has been working diligently to respond ever since.

As an initial matter, we disagree with your assertion that the CAFA notice provided to you is deficient because it directs your office to the notice provider, Verita Global, LLC, for further information. No other Attorney General raised similar concerns about the notice, perhaps because the notice is functionally identical to many that have been sent over the last several years, including to your office. As you know, it is quite common in the context of class action settlements, particularly those involving the possibility for opt-outs, that more accurate information regarding the number of class members residing in a state will be available as the settlement administration process runs its course. The settlement administrator is willing to provide such information as soon as it is available, and we are aware of no judicial decision denying approval of a settlement on the court-ordered schedule based on challenges to notices similar to the one sent to your office.

In an abundance of caution, however, we have worked with our client to provide the following information about the number of student-athletes competing in Division I sports in South Dakota, relative to the number of student-athletes competing in Division I sports nationwide, each academic year beginning in 2016 through 2024. This information provides more than “a reasonable estimate of the number of class members residing in [South Dakota] and the estimated proportionate share of the claims of such member to the entire settlement.” 28 U.S.C. § 1715(b)(7).

Year	South Dakota student-athletes in Division I	Total student-athletes in Division I
2016-17	1,144	177,050
2017-18	1,165	178,519
2018-19	1,282	181,082
2019-20	1,274	182,061
2020-21	1,340	183,463
2021-22	1,339	184,030
2022-23	1,279	188,671
2023-24	1,292	188,012
2024-25	1,296	196,734

For awareness, the information above reflects participation numbers by year, not unique student-athlete counts, so a student-athlete participating in multiple sports within the same year would appear multiple times in the same year. Additionally, a student-athlete participating in multiple years would appear in each year of participation. We have included only student-athletes participating in NCAA sponsored sports from primary Division I schools (*i.e.*, we have excluded schools reclassifying into and out of Division I).

We believe this information, in addition to what was already provided, goes well beyond what CAFA requires.

Sincerely,




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cc: Jason Sutton, Boyce Law Firm